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FEB 24 2009

In re Application of	:	OFFICE OF PETITIONS
Austin Gurney	:	
Application No. 10/697,599	:	LETTER REGARDING
Filed: October 29, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. GNE-0125A	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705(b))" filed December 10, 2008. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the patent term adjustment is GRANTED.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is 540 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 8, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 541 days. On December 12, 2008, applicants submitted the instant comment. Applicants disclose that they believe that the patent term adjustment indicated on the Determination of Patent Term Adjustment is incorrect and should be set at 540 days. Applicants state that the USPTO incorrectly entered the date of receipt of the Request for Continued Examination (RCE) as October 29, 2007, instead of the correct date of October 30, 2007.

A review of the application history indicates that applicants are correct. The Office incorrectly entered the date of receipt

of the RCE as October 29, 2007, instead of October 30, 2007. Thus, the date of October 30, 2007, not October 29, 2007, should have been used for the purpose of calculating patent term adjustment. Accordingly, the period of adjustment of the term of the patent should have been reduced by 62 days (not 61 days), counting the number of days in the period beginning on the day after the date that is three months after the date of mailing of the final Office action, August 30, 2007, and ending on the date the reply was filed, October 30, 2007. See 37 CFR 1.704(b). The period of reduction of 61 days will be removed and a period of reduction of 62 days will be entered.

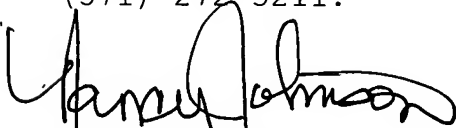
In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **540 days**.

As this letter was submitted to advise the Office of an error in applicants' favor, the Office will not assess the \$200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Tuesday
Date: 2/10/2009

P A L M I N T R A N E T

Time: 16:23:39

PTA Calculations for Application: 10/697599

Application Filing Date:	10/29/2003	PTO Delay (PTO):	658
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	117
Post-Issue Petitions:	0	Total PTA (days):	540
PTO Delay Adjustment:	-1		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
82	02/10/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		62	
81	02/10/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	61		
68	10/08/2008	MAIL NOTICE OF ALLOWANCE	47		52
67	10/06/2008	ISSUE REVISION COMPLETED			
66	10/06/2008	DOCUMENT VERIFICATION			
65	09/30/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
64	09/30/2008	CASE DOCKETED TO EXAMINER IN GAU			
63	09/30/2008	EXAMINER'S AMENDMENT COMMUNICATION			
62	09/30/2008	NOTICE OF ALLOWABILITY			
61	09/30/2008	MAIL ADVISORY ACTION (PTOL - 303)			
55	08/12/2008	ADVISORY ACTION (PTOL-303)			
54	05/21/2008	NOTICE OF APPEAL FILED			
53	05/06/2008	DATE FORWARDED TO EXAMINER			
52	04/22/2008	AMENDMENT AFTER FINAL REJECTION			
51	02/26/2008	MAIL FINAL REJECTION (PTOL - 326)			
50	02/19/2008	FINAL REJECTION			
49	08/02/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	12/03/2007	DATE FORWARDED TO EXAMINER			
47	10/29/2007	RCE- AF PROCESSED			
46	12/03/2007	DATE FORWARDED TO EXAMINER			
45	10/29/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		61	36
44	12/03/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
43	10/29/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			

41	10/30/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
40	08/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	08/12/2007	DATE FORWARDED TO EXAMINER			
38	08/02/2007	AMENDMENT AFTER FINAL REJECTION			
37	08/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	05/29/2007	MAIL FINAL REJECTION (PTOL - 326)	171		32
35	05/28/2007	FINAL REJECTION			
34	07/18/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	03/19/2007	DATE FORWARDED TO EXAMINER			
32	08/09/2006	RESPONSE AFTER NON-FINAL ACTION		56	28
31	08/09/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	07/18/2006	REFERENCE CAPTURE ON IDS			
29.7	07/18/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	07/18/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	03/14/2006	MAIL NON-FINAL REJECTION	440		-1
27	02/21/2006	NON-FINAL REJECTION			
26	01/25/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	01/18/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24.7	01/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	01/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	11/29/2005	CASE DOCKETED TO EXAMINER IN GAU			
22	07/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	01/18/2005	REFERENCE CAPTURE ON IDS			
20.7	01/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	01/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	10/18/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	06/07/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			

17	06/04/2004	CASE DOCKETED TO EXAMINER IN GAU			
16	05/05/2004	APPLICATION RETURN FROM OIPE			
15	05/05/2004	APPLICATION RETURN TO OIPE			
14	05/05/2004	APPLICATION DISPATCHED FROM OIPE			
13	05/05/2004	APPLICATION IS NOW COMPLETE			
12	04/21/2004	ADDITIONAL APPLICATION FILING FEES			
11	04/21/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
10	04/30/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
9	02/23/2004	SEQUENCE ERRORS			
8	10/29/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
7	01/29/2004	CLEARED BY L&R (LARS)			
6	01/21/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
5	01/21/2004	CASE CLASSIFIED BY OIPE			
4	12/02/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	11/14/2003	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
2	10/29/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	10/29/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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